

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAMES BROOKNER,
Plaintiff,

v.

No. CV-10-639 CG/RLP

SSC Inc., *et al.*,

Defendants.

ORDER

This matter comes before the Court upon *Plaintiff's Response to Order to Show Cause*. (Doc. 26). Plaintiff requests a seven day grace period to decide whether he will attempt to serve Defendant Evangeline Lujan-Vigil by publication pursuant to N.M. Ct. C.P.R. § 1-004(J); 1-004(K). The Court finds Plaintiff's request to be reasonable and will **GRANT** the request.

Plaintiff was originally required to show cause why Defendant Evangeline Lujan-Vigil should not be dismissed without prejudice from the action because Plaintiff had failed to properly serve her with the complaint. (Doc. 24). In his response to the Court's Order, Plaintiff conceded that he never properly served Ms. Lujan-Vigil. (Doc. 26 at 2). Plaintiff further stated that, while he does not necessarily oppose the dismissal of Ms. Lujan-Vigil from the case, he has requested seven days so that he might decide whether to attempt service by publication.

IT IS THEREFORE ORDERED that Plaintiff shall have seven days from the entry of this Order to file a motion and affidavit pursuant to N.M. Ct. C.P.R. § 1-004(J) requesting authorization to effect service by publication. However, should Plaintiff decide not to pursue service by publication, Plaintiff is ordered to file notice with this Court indicating that he

does not oppose the dismissal of Ms. Lujan-Vigil from this action.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE